

EXHIBIT 245

To: Barron, Richard L.
From: Marilyn Marks[Marilyn Marks]
Sent: Wed 7/8/2020 4:48:37 PM (UTC+01:00)
Subject: FW: Correspondence to Fulton last month re scanner issue

Rick,

You might want to remind attorneys that we have been squawking about this issue for some time already.

And Board did not act.

MM

From: Marilyn Marks <Marilyn@USCGG.org>
Date: Friday, June 19, 2020 at 8:07 PM
To: Mary Carole Cooney <mccooney@mindspring.com>, Dr Kathleen Ruth <drkayruth@icloud.com>, "aaronvjohanson@yahoo.com" <aaronvjohanson@yahoo.com>, Vernetta Keith Nuriddin <vernettaturiddin@live.com>, Mark Wingate <wingate01md@gmail.com>
Cc: Richard Barron <richard.barron@fultoncountyga.gov>
Subject: Recount request ignored by Board, and tabulation discrepancies not investigated

Fulton Board of Elections,

I can hardly express my level of disappointment in your actions today. I understand the impossible conditions that this election presented, particularly given the devastatingly reckless decisions made by the Secretary of State in the selection and implementation of the new voting system. I certainly wish the Board had put on the record today the widespread and repeated failures of the new voting system and particularly the electronic pollbooks. All metro counties experienced these predicted failures and had little support from the SOS to mitigate the damage he created by imposing this flawed new system during impossible conditions. However, the Board's decisions today add insult to injury of Fulton voters.

The Fulton Board could have used its considerable authority to mitigate the Secretary's failures, not exacerbate and conceal them. The Board failed its voters again today, and undermined democratic principles yet again in its refusal to address serious voting system irregularities.

I want to remind you of the thousands of Fulton voters who stood in lines for many long hours to cast their votes, and those who put in so much effort to obtain a timely absentee ballot, and this board failed them. Yet, this board continues to have so little respect for those citizens' votes that it cannot be bothered to even respond to known irregularities in vote counting, and formal requests for recounts.

A serious issue of uncounted votes because of the new voting system software flaws was presented to this board by our organization last Saturday and again yesterday. (See email below.) This software scanning/ tabulating problem had been verified by numerous counties. The board showed absolutely no interest in learning the scope of the problem in Fulton and made no effort to inform the Fulton voters of

your views or information on this matter of uncounted votes, or inform voters of any work done to undertake due diligence on the software problem. Mr. Favorito asked you about it in his public comments today. Three Congressional candidates had asked for investigation. Most importantly, Ms. Elizabeth Beskin, a candidate for Georgia Supreme Court, filed a formal request (attached) for a recount of a portion of the ballots under her statutory rights (21-2-495(a)), given the concerns about the uncounted vote problem.

The Board did not even show the courtesy, much less fulfill its responsibility, to acknowledge her recount request, discuss it and vote on it. What does this say to candidates and voters about Fulton County Board's concern about the value of their votes and the serious business of conducting a legally compliant and fair election? Given the Secretary's negligent choices of hardware and software, it seemed that the Fulton Board would have wanted to be particularly diligent, rather than just ignoring the serious technology concerns expressed by voters and candidates about uncounted votes.

The board also failed to certify that the optical scanning equipment being used was approved and certified by the Secretary of State as required by § 21-2-368(c). The mail ballot scanners supplied by the SOS were not designed or certified for the application of ballot scanning. The Board had multiple complaints and press reports of scanning problems with uncounted votes, and even a recount request, but the Board's reaction was to ignore the vote counting issue. Although the Secretary created the problem, the Fulton Board completely failed in its duty to address the looming issues, and certified the results without as much as a question about the known problem of uncounted votes.

Given that the Board had not investigated the uncounted votes issue or the recount issue, it is hard to accept that the Board did not seek an extension of time to certify, given the serious issues. DeKalb postponed their certification amid a COVID-19 case in the election office. Fulton could have likewise sought a delay until discrepancies could have been investigated. Given the Secretary's actions that created such a problem election, he was hardly in a position to take punitive action for delayed certification while the Fulton Board undertook reasonable investigation.

The Board can remedy its dismissive action today by undertaking a serious effort to investigate the vote count issues and carefully review the vote counts reported to you today and the problems related to the ballot scanning. Although the election is certified at the county level, the Secretary will certify next week. Your board can undertake an investigation and communicate any concerns to the Secretary before his certification.

See our prior correspondence below. We received no response, consistent with our experience over the last year when we and our members have repeatedly expressed our concerns about election security, voter privacy and election fairness in Fulton County. The Board has never once addressed our concerns, despite our many letters and our several of our members' attendance and public comments made month after month in the Board's meetings.

Please let us know if you have questions. We stand ready to assist in the investigation of problems and their resolution.

Marilyn Marks

Executive Director

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From: Marilyn Marks <Marilyn@USCGG.org>

Date: Thursday, June 18, 2020 at 11:47 AM

To: Mary Carole Cooney <mccooney@mindspring.com>, Dr Kathleen Ruth <drkayruth@icloud.com>, "aaronvjohanson@yahoo.com" <aaronvjohanson@yahoo.com>, Vernetta Keith Nuriddin <vernettanuriddin@live.com>, Mark Wingate <wingate01md@gmail.com>

Cc: Richard Barron <richard.barron@fultoncountyga.gov>

Subject: Urgent: Delay Fulton Election Certification --Count all votes

Fulton County Board of Commissioners and Board of Elections,

Please halt Friday's planned certification of the election and count all valid votes. Determining an accurate count will take some time and expert analysis of the source and scope of the vote counting software problem. Although Friday is the statutory deadline, it must give way to the more important legal required to count all votes legally cast.

Members of Coalition for Good Governance and many other voters were dismayed to learn that the Fulton BRE has not yet committed to examine ballots for uncounted votes created by flawed software supplied by the Secretary of State. We know from reports of bi-partisan vote review panels in multiple counties, including a partial recount in Athens-Clarke County yesterday, that there are meaningful numbers of mail ballot votes undetected by the scanner-tabulators. DeKalb County identified thousands of valid votes uncounted by the software and adjusted the vote tallies, although we believe that thousands more votes may have been overlooked in DeKalb. Athens-Clarke noted 35 unvoted votes in a sample of 76 ballots during the recount exercise on Wednesday. The problem appears to be generated by a combination of flawed software, flawed scanner software settings and inadequately tested equipment. The problem has not been researched and requires expert analysis to fully determine the scope of the issue. We do not know whether the impact would change the outcome of any race.

We wrote you about this on Saturday, in the email linked here. <https://conta.cc/3e10l02>
<https://urldefense.proofpoint.com/v2/url?u=https-3A__conta.cc_3e10l02&d=DwMFaQ&c=HPJvcKF4Kk5Wqru1T_u_fOsw8NVQVa3gp0ReMdlciXw&r=Ab1tWoBND5WPUindk9Sn4wStS2z-l-4wem9O9RY2hRILrpnrd9tMptAtAtHi9ii&m=gl8kDpu_9vRWF6O85EcTWpBp3DL5jwT7aM_kTNe7uPA&s=GAd7vDYtdn1gGJFAEmA9O1pelu_6HlqzKqp8CPvrAsk&e=>

Associated Press wrote this story. <https://apnews.com/66c2b4b36609d83aa5c08235f947ea59>
<https://urldefense.proofpoint.com/v2/url?u=https-3A__apnews.com_66c2b4b36609d83aa5c08235f947ea59&d=DwMFaQ&c=HPJvcKF4Kk5Wqru1T_u_fOsw8NVQVa3gp0ReMdlciXw&r=Ab1tWoBND5WPUindk9Sn4wStS2z-l-4wem9O9RY2hRILrpnrd9tMptAtAtHi9ii&m=gl8kDpu_9vRWF6O85EcTWpBp3DL5jwT7aM_kTNe7uPA&s=uOg_HobbAef91jViY-ZxyZaYpeVwmOqAL9ZPDHi7p7l&e=>

On the eve of this board's certification that the election results are accurate, Fulton has still not acted on this troubling concern, although the board has been alerted to the probability that there are thousands of uncounted votes.

It appears, among other things, that the settings on the mail ballot scanners may be set by the SOS guidelines to not count votes with less than 29% of the oval colored in. This is an inappropriate setting for mail ballots, and voters would have no way of knowing that coloring the oval in 25% would disqualify their vote.

Fulton County chose to conduct a manual review of over-votes rejected by the scanners, which is a valid and appropriate choice *if* the new voting system software worked properly. It doesn't work properly. There is an adjudication software application that was used by some counties in lieu of the manual over-vote review that exposed the fact that the scanner/tabulator was failing to register and count a meaningful number of valid votes. While the use of the software should not be necessary to locate flaws in the counting system, applying it is the fastest way to get an initial sense of the votes that are not being recorded by the scanner software. Without expert investigation, an accurate vote count cannot be determined.

We urge you to bring in nationally respected independent experts to review this problem created by the SOS software and hardware, and gain assurance that the vote counts can be thorough, complete and accurate. This is not the time to rely exclusively on the vendor and the Secretary of State for technical evaluation of the problem.

Please let us know if we can be of assistance.

Marilyn Marks

Executive Director

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